

National Foundation on the Arts and the Humanities

§ 1151.12

§ 1151.5 Inconsistent State laws and effect of employment opportunities.

(a) Recipients are not excused from complying with this part as a result of state or local laws which limit the eligibility of handicapped persons to receive services or to practice a profession or occupation.

(b) The presence of limited employment opportunities in a particular profession does not excuse a recipient from complying with the regulation. For example, a music school receiving Endowment financial assistance could not deny admission to a qualified blind applicant because a blind singer may experience more difficulty than a non-handicapped singer in finding a job.

§§ 1151.6–1151.10 [Reserved]

Subpart B—Standards for Determining Who Are Handicapped Persons

§ 1151.11 Handicapped person.

(a) *Handicapped person* means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. For purposes of section 504, in connection with employment, this term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to the property or safety of others.

(b) As used in paragraph (a) of this section, the phrase:

(1) *Physical or mental impairment* means:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional and mental illness, and specific learning disabilities. The term *physical or mental impairment* includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means:

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment;

(iii) Has none of the impairments defined in paragraph (b)(1) of this section but is treated by a recipient as having such an impairment.

§ 1151.12 Qualified handicapped person.

Qualified handicapped person means:

(a) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question; and

(b) With respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.